

# INTERVENTION ORIGINAL



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## Town of Buckeye

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Phoenix, AZ 85007

AZ CORP COMMISSION  
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**Docket # SW-20431A-05-0840, Green Acres Sewer, LLC**

**Docket # W-20430A-05-0839, Green Acres Water, LLC**

Case Staff: H-Stern, L-Ronald, U-Wells, U-Liu, U-Amezcu, U-Chukwu, U-Myhlhousen

Dear Document Control:

Subject: Application for Intervention in Accordance with AAC R14-3-105 and Procedural Order dated May 11, 2006.

Intervenor: Town of Buckeye  
Carroll Reynolds, Town Manager  
100 E. Apache  
Buckeye, Arizona 85326  
(623) 764-5025

Intervenor's Interest: The Town of Buckeye is in opposed to the Arizona Corporation Commission granting Certificates of Convenience and Necessity for Private Sewer and Water Utilities in the Town of Buckeye's Municipal Planning Area.

Certification Statement: This is a statement that certifies that this motion to intervene has been mailed to the Applicant and its Counsel. No other parties of record are known at this time.

One original and 13 copies

The Town of Buckeye (hereafter referred to as the Town) is severely affected by the application by Mr. Steve Robson (hereafter referred to as the Applicant) for sewer and/or water Certificate(s) of Convenience and Necessity (CC&N) for service areas within the Municipal Planning Area of the Town of Buckeye as referenced in the Dockets listed above. The Town respectfully requests an order from the Arizona Corporation Commission (ACC) or presiding officer to grant leave to the Town to intervene in both proceedings referenced in the above listed Docket numbers.

The basis for this Intervention is as follow

1. The Applicant cannot implement any grant of CC&N by the ACC for sewer service without the sponsorship of the Town of Buckeye to the MAG 208 Water Quality Management Planning Agency in accordance with AAC Title 18, Chapter 5, Article 3. The Town is not supportive of the plan by the Applicant to provide sewer service within the Town's Municipal Planning Area (refer to map in attached Exhibit A). In a statement made by the Applicant (refer to February 7, 2006 letter from the Applicant in response to December 09, 2005 list of deficiencies to the ACC):

"It is expected that the Section 208 Plan amendment will be submitted to the Maricopa Association of Governments in April of 2006. Approval is expected by March 2007."

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This statement is immaterial and unsubstantiated since the Applicant cannot submit a Section 208 amendment to MAG without the support of and sponsorship by the Town of Buckeye.

MAG is the agency referenced in AAC Title 18, Article 3 as the designated Water Quality Management Planning Agency under Section 208 of the Federal Water Pollution Control Act (P.L. 92-500) as amended by the Water Quality Act of 1987 (P.L. 100-4). This designation is certified by the Governor of Arizona and approved by the United States, Environmental Protection Agency. (refer to AAC R18-5-301.1).

MAG is the single representative organization, as designated by the Governor and the USEPA for Maricopa County, as the capable agency to develop effective area-wide sewage treatment management plans for Maricopa County. (refer to AAC R18-5-301.2).

The Town has a MAG 208 plan to provide area-wide sewage treatment and collection system services over the area for which the Applicant is requesting a CC&N for sewer service (refer to map in attached Exhibit B).

2. The Applicant cannot submit an administratively complete application to the Arizona Department of Environmental Quality for an Aquifer Protection Permit without the documentation from MAG that the sewage treatment facility conforms with the 208 Certified Area-wide Water Quality Management Plan (the Plan) (AAC R18-9-A201.B.6).

In the February 7, 2006 letter from the Applicant in response to December 09, 2005 list of deficiencies to the ACC, the Applicant states:

"It is expected that the Aquifer Protection Permit application will be submitted to the Arizona Department of Environmental Quality (ADEQ) in May 2006. Approval is expected by September 2007."

This statement is immaterial and unsubstantiated if the Town will not support or sponsor the amendment to the MAG 208 Plan. Without this amendment, the ADEQ will not accept an application for a permit to discharge sewage effluent. Aquifer Protection Permits are required categorically for any sewage treatment facility in the State of Arizona.

3. Fractionated service areas for water and sewer service in any municipal planning area are creating current challenges to the Town and other local governments, as well creating future impediments to sound area-wide Town planning for these services. In addition, approval of these service areas by the ACC encourages the irreversible establishment of "County Islands" within municipalities.

Although the focus of the ACC in these applications is restricted to water and sewer services, there is a correlative affect on other municipal services that impact public safety, that include but are not limited to fire, police, transportation and refuse. The problems associated with County Islands are well established as municipalities mature, and it has become a past and current matter for the Arizona State Legislature as well as the ACC to address and correct these problems.

4. The establishment of fractionated water and sewer service areas in the Town's planning area by the ACC creates significant impediments to the development and transmission of good sources of water and likely will result in very disparate rate structures across the Town's municipal planning area.

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The application for CCN to provide water services for this area includes a Conceptual Water System Study, dated March 14, 2006. Refer to Section 3.2, page 4 of this Study. Non-specific statements include "the conceptual treatment is reverse osmosis system, the byproduct of which is brine. The brine will need to be disposed of in an acceptable manner". This water study does not include impact to water rates that are known to the Town for water sources in this area. Nor do the currently proposed land plan maps submitted by the Applicant show any area reserved for the disposal of brine or other waste streams.

Town areas contiguous to the Applicant's proposed service area have significant water quality challenges that exceed federally listed maximum contaminants for Arsenic, Nitrates, Fluoride and Total Dissolved Solids (secondary). The water rate impacts are significant, not only for the capital cost, operation and maintenance expense of treatment, but also for the disposal of the wastewater from the treatment processes. These source water contaminants, separately or together, can result in waste streams as much as 50% of total daily water demands.

The Town, as well as neighboring municipalities, are considering the reservation of large areas of land for brine disposal. These areas are required to have lined barriers to prevent releases of contaminants to the groundwater. Dependent on the concentration of listed contaminants, these disposal facilities may be subject to ADEQ Aquifer Protection Permit conditions that require interstitial and groundwater monitoring.

The most cost effective solution for the future residents of the Town's Municipal Planning area is for the Town to consider the long range future service areas for water. Many of the areas of the Town planned for future development have good sources of water. It is the intent of the Town to develop these good sources and then to transmit this water to Town areas where the water requires expensive treatment. Also an area-wide water line system promotes redundancy and reliability of water services

5. The granting of either water or sewer service areas by the ACC to a private utility will impact the Town planning for assurance of water supplies for the future and it will impact the Town's application to the Arizona Department of Resources (ADWR) for designation as an assured future water provider.

Water or sewer services are interdependent and should not be separated. Sewer rates are often calculated based on water usage; therefore the billing process is more efficient if prepared by one utility. In addition, sewage effluent is also used to offset water usage and promote sustainable future supplies through groundwater recharge or replenishment.

The source for groundwater replenishment is usually the effluent from sewage treatment. In concert with the Town's application for an assured water designation, the Town is conducting an effluent management study for its Municipal Planning Area. This study and the application to the ADWR is dependent on the Town having area-wide control of sewage effluent.

6. Adequate notice should be available to the Town for all future action by this Applicant with the ACC and specified in any future procedural orders. In addition, it would be appropriate for the Applicant to conduct public meetings for the residents of the Town of Buckeye and to provide notice in local publications.

This Applicant's project is contiguous to the Town of Buckeye incorporated and annexed areas. The residents of this project will need transportation routes through the Town of Buckeye. The master plans submitted to Maricopa County, Planning and Development Department include acreage that is currently in the Town of Buckeye.

The Town is severely impacted by this proposed project and the Applicant should be notifying and discussing these impacts with the residents and management of the Town.

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7. The merits of this application for water and sewer service areas need to be considered with respect to all future development in this area. Currently neighboring owners of large parcels of land area are proposing different private water and sewer facilities and utilities.

This Applicant's proposed franchise area has been amended within the previous six months to include an area significantly smaller than originally requested. The previous participants have since decided to establish another separate water and sewer system.

This present day example of the disassociation of developers in this area, and the intent of these developers to create multiple and separate water and sewer systems that are limited and unique to each development plan, demonstrates the trend that will be created by the ACC approving this Applicant's request for water and sewer services areas within the Town of Buckeye's Municipal Planning Area.



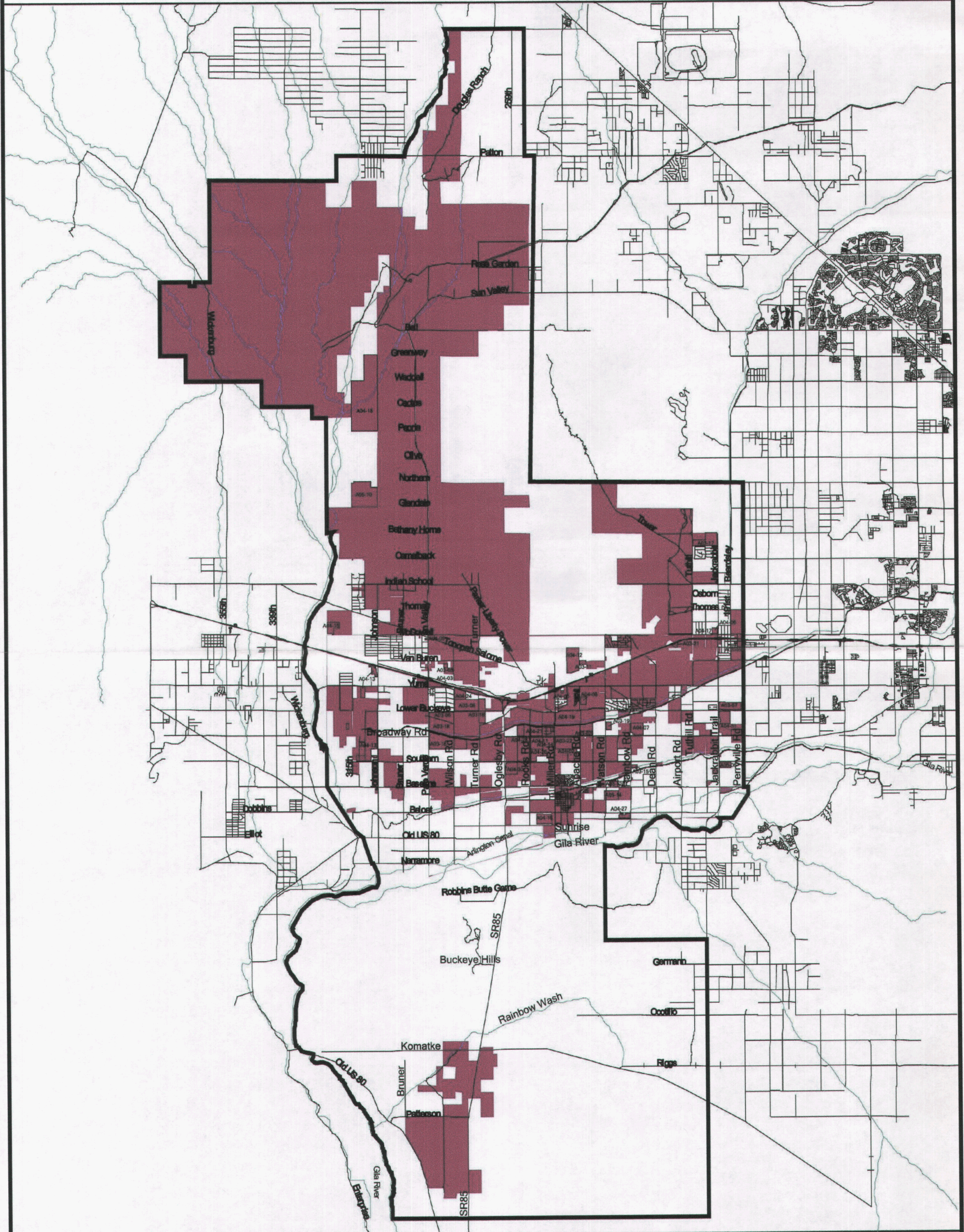
## **Exhibit A**







# MUNICIPAL PLANNING AREA OF THE TOWN OF BUCKEYE

## ADOPTED NOVEMBER 19, 1996

## REVISED FEBRUARY, 2003



-  Municipal Planning Boundary
-  Streets
-  Rivers & Streams
-  Current Buckeye Annexations



REVISIONS:	
07/02/02	BJC
02/10/03	JFM

2 0 2 4 Miles

Prepared for the Town of Buckeye  
by Community Sciences Corporation



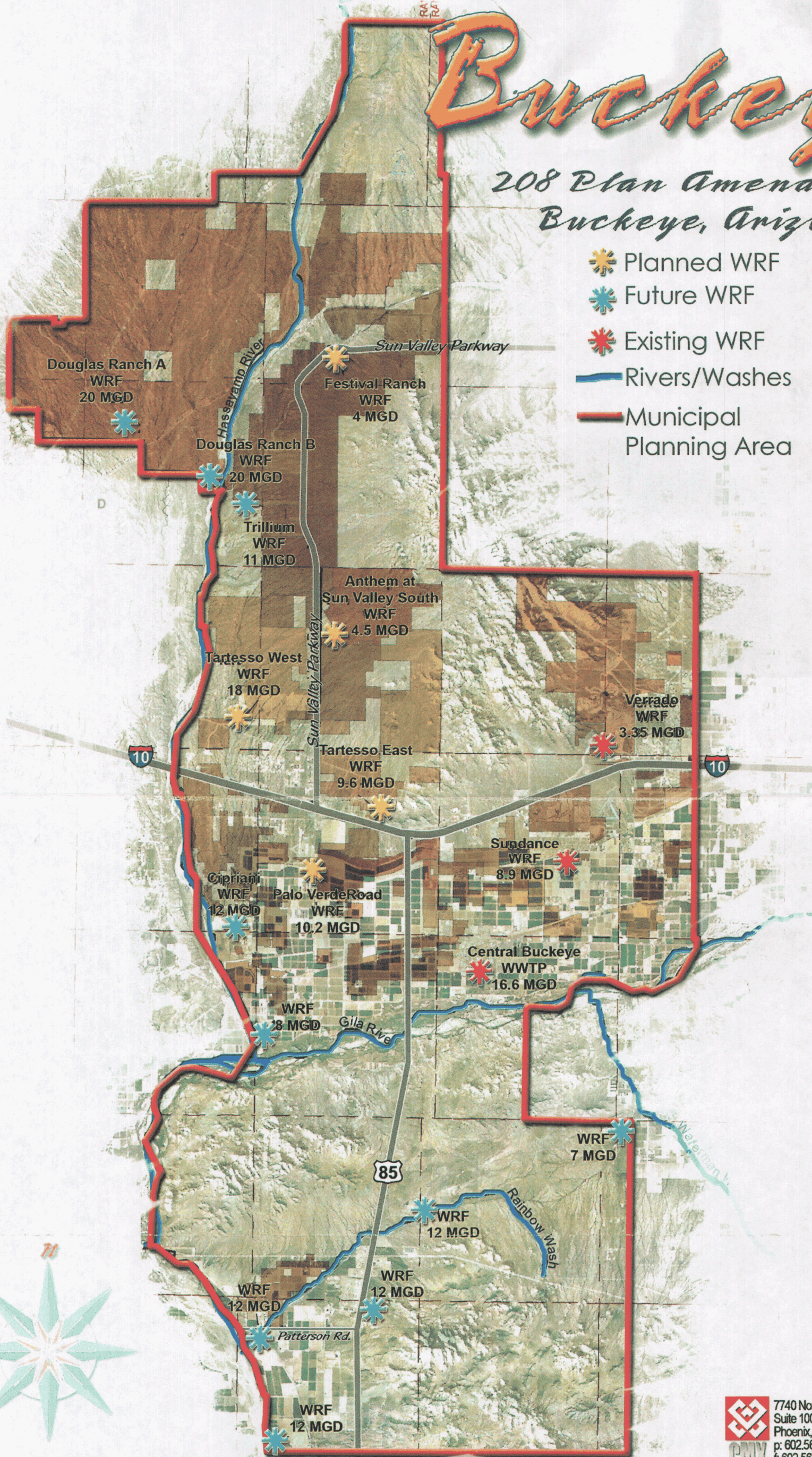
## **Exhibit B**



# Buckeye

## 208 Plan Amendment Buckeye, Arizona

-  Planned WRF
-  Future WRF
-  Existing WRF
-  Rivers/Washes
-  Municipal Planning Area



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# Water Reclamation Facilities